GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR- Sri Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta (V), Gangavaram (M), Alluri Sitharamaraju District has filed a Revision Petition before the Government of A.P., against the orders of the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.42/2004, dated.29.10.2005 in respect of land measuring Sy.No.25 of Ac.5.59 and Sy.No.28/4 of Ac. 1.25 of Bayyanapalli (V), Gangavaram Mandal of the Alluri Siitharamaraju District erstwhile East Godavari District - Dismissed- Orders-Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.43 **Dated:12.07.2023**

Read the following:

1. Revision Petition filed by Sri Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta (V), Gangavaram (M), Alluri Sitharamaraju District before the Hon'ble Dy.CM(TW), dt.06.12.2005 together with its enclosures.

2. Hon'ble High Court order in W.P.No. 27040 of 2005, dt.20.12.2005 filed by Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta(V), Gangavaram (M), Alluri Sitharamaraju District.

3. From the Project Officer, ITDA, Rampachodavaram, Lr.Rc.No.2T8/Memo No.276/LTR-2/2006-1, dated.19.06.2006 in C.M.A.No.42/2005, Dated: 25.09.2007.

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O R D E R :

In the reference 1st read above, Sri Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta (V), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District has filed a Revision petition before the Government of A.P., against the orders of Additional Agent to Government cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District in CMA No.42/2004, dated.29.10.2005 in respect of land measuring Sy.No.25 of Ac.5.59 and Sy.No.28/4 of Ac. 1.25 of Bayyanapalli (V), Gangavaram Mandal, Alluri Sitharamaraju District.

(P.T.O.)

2. **Brief history of the subject case:**

a) The Tribal Petitioners Sri Regam Peda Rajulu, S/o.Janayya and Sri Patara Rajulu, S/o. Narasayya, Bayyanapalli Village, Gangavaram Mandal has filed a Complaint under section 3(1)(a) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled lands after ejecting the non-tribal respondents.

b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after perusal of the case records held that the settlement register of 1935 of Bayyanapalli show that the land extent of Acres 5.59 in Sy.No.25 and extent of Acres 1.25 in Sy.No.28/4 were got registered in the name of Dasari Ammanna of Patta 22. As per the Registered sale deed 3222/1950, dated.09.09.1950 Sri Beeraboina Venkata Rao, S/o. Raju Purchased the land extent of Acres 5.59 in Sy.No.25 and extent of Acres 1.25 in Sy.No.28/4 from Dasari Ammanna Venkataratnam and Others, S/o.Gubbayya, (Gauada caste). The fasali 1383 remission statement shows that Beeraboina Venkata Rao of Patta 22 possessed Acres 5.59 in Sy.No.25 and extent of Acres 1.25 in Sy.No.28/4 written as "Neeruleni Banjaru" i.e. Waste for want of water and ordered for remission of water assessment. The tax receipts vary from Fasali 1377 paid on 26.07.1971 onwards. The old pattadar and New Pattadar pass books and Title deeds confirm the father and mother of respondent as pattadar's of Petition Scheduled Land. As the sale in 1950 was made between two non-tribals it is held valid under section 4 of Act 1/1917. Further the vendor Dasari Ammanna is the settlement pattadar of 1935. The remission statement mentioned the Petition Scheduled Land left as "Waste" or want of water due to draught conditions prevailed at that time and the word "Banjara" did not apply to the settlement nature of the Petition Scheduled Land which was already settled as ryotwari wet land. Hence, The Special Deputy Collector(TW), Rampachodavaram, Alluri Sitharamaraju District issued **"Dismissed"** orders, that the possession of respondent on Petition Scheduled Land was not violative under Agency Land Transfer Regulations and no prohibitory transfer of land is involved vide LTRP No.13/2000 & LTRP No.128/2000, dated.05.09.2000.

c) Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District Sri Regam Peda Rajulu, S/o.Janayya and Sri Patara Rajulu, S/o. Narasayya, Bayyanapalli Village, Gaangavaram Mandal, Alluri Sitharamaraju District has filed an appeal against the orders dt. 05.09.2000 in LTRP No.13/2000 & LTRP No.128/2000 before the Addl. Agent to Govt. cum Project Officer, ITDA Rampachodavaram, Alluri Sitharamaraju District.

d) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District has allowed the appeal filed by the Sri Patara Rajulu, S/o. Narasayya, Bayyanapalli Village, Gaangavaram Mandal with regard to the scheduled property covered by measuring S.No.25 of Ac.5.59 and S.No.28/4 of Ac. 1.25 of Bayyanapalli (V), Gangavaram Mandal, Alluri Sitharamaraju District and in C.M.A.No.42/2004, dated.06.12.2005, set aside the orders passed by the SDC (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No.13/2000 & LTRP No.128/2000, dt. 05.09.2000.

3. Aggrieved by the above orders, Sri Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta (V), Gangavaram (M), Alluri Sitharamaraju District has filed a Revision petition before the Government of A.P., against the orders of the Addl. Agent to the Govt. cum Project Officer, ITDA, Rampachodavaram in C.M.A.No.42/2004, dated.06.12.2005 with a request to set aside the orders passed by the Addl. Agent to Govt. cum Project Officer, ITDA, Rampachodavaram in the interest of justice.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level vide reference 2nd read above. In reply to the above, the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in his Lr. dt. 19.06.2006 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in C.M.A.No.42/2004, dated.06.12.2005 and the remarks on the affidavit filed by the Petitioner.

5. Meanwhile, the petitioner Sri Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta (V), Gangavaram (M), Alluri Sitharamaraju District has filed W.P.No.27040 of 2005, dated.20.12.2005 before the Hon'ble High Court with a request to direct the respondents not to evict the petitioner from the above land pending disposal of the revision before the 4th respondent in the interest of justice. Accordingly, the Hon'ble High Court issue "Status Quo" orders as on today, with regard to evict the petitioner from the land to an extent of Ac.5.59 in R.S.No.25 and an extent of Ac. 1.25 cents in R.S.No.28/4 situated in Bayyanapalli (V), Gangavaram Mandal, Alluri Sitharamaraju District.

6. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 07.03.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government and written arguments filed by both parties counsels, the Revision Authority has observed that:

(a) This Revision Petition is filed by Sri Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta (V), Gangavaram (M), Alluri Sitharamaraju District against orders of the Additional to Agent Government, Rampachodavaram, Alluri Sitharamaraju District with regard to the land in Sy.No.25 of Ac.5.59 and Sy.No.28/4 of Ac. 1.25 of Bayyanapalli (V), Gangavaram Mandal, of the erstwhile East Godavari District dated. 29.10.2005 passed in CMA No.42/2004 directing the Mandal Revenue Officer, Gangavaram for ejection of Non-Tribal Respondents or any other person bound by the order and for restoration of the same to the Government for onward assignment to eligible tribes, while setting aside the order passed by the Special Deputy Collector in LTRP No.131/2000 & 128/2000 dt.5.9.2002 in favour of the non-tribal petitioners.

(b) The Petitioners Beeraboyina Prakasam and Beeraboyina Radha Krishna died during pending of the Revision Petition. B.Padma wife of Radhakrishna and B.Venkatesh, son of Beeraboina Prakasam were brought on record as legal representatives of Revision Petitioners by filing a step petition on 26-11-2022. Accordingly it was allowed. The Counsel requested to treat the earlier arguments filed as the arguments for the Petitioners. Heard both sides. The following order is made after perusal of the material documents available on the file.

(c) The main contention of the Revision Petitioners is that the Additional Agent to Government/First respondent erred in restoring the revision schedule land to the Government, and no prohibited transfer was involved in the case and their father acquired the land before the commencement of Land Transfer Regulations 1 of 70 and as such there is no violation of the section 3(1)(a) of the Land Transfer Regulation 1/70 and failed to see the merits of the case and passed the impugned order.

(d) The order of the Spl. Dy. Collector, Tribal Welfare, Rampachodavaram, Alluri Sitharamaraju District shows that the land originally stood over in the name of Dasari Ammanna as per the settlement register of 1935 (Patta No 22) of Bayyanapalli, and the said land was purchased by Sri Binaboyina Venkata Rao, S/o. Raju from Dasari Ammanna and others through a registered sale deed 3222/1950 dt.9.9.1950(ExR1) and Ex.R2 is the remission statement for Fasali 1383 which shows that the nature of land is as "Neeruleni Banjaru" and the tax receipts filed vary from Fasali 1377 paid on 26.7.1971 onwards and the old and new Pattadar Pass Book, Title Deed, and the sale which was effected between the non tribals is valid under the section 4 of Ac. 1/1917 and though the classification of land "banjar" mentioned on the remission statement as such it is not applicable to the ryotwari settlement lands.

(e) However, the Addl.Agent to Government/First Respondent disagreed with the findings of the order of the Special Deputy Collector(TW), Rampachodavaram, Alluri Sitharamaraju District and held that the non tribals who were in possession of the schedule lands by virtue of a Sale Deed No.3222/1950, dated 9-9-1950, failed to produce the documentary evidence to

show that their continuous possession and enjoyment of the schedule lands from the date of the sale deed, and that the Special Deputy Collector(TW), Rampachodavaram, Alluri Sitharamaraju District erroneously considered Settlement Chitta, as Settlement Patta, while Remission Statement as Settlement Fair Adangal, and decided the case in favour of the non tribal claimants on improper documents and held that the sale transaction effected between non tribal parties is null and void as per the provisions of Land Transfer Regulations 1 of 59 amended by 1 of 70 and ordered for restoration of the schedule land to the Government for onward assignment to eligible tribes by evicting non tribal claimants from the schedule lands.

(f) Now the point for consideration is whether the land involved in the case is "Banjara" land or Ryotwari Settlement Patta land? And whether the transaction held in 1950 between the non tribal parties is valid or not under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 70 or not?

I. If the claim of the Revision Petitioners is that the lands involved are Ryotwari lands. However the Revision Petitioners have not filed any Ryotwari Settlement Patta granted by any competent Settlement Officers in favour of them under the AP Scheduled Area Ryotwari Settlement Regulations 2 of 70 or any other laws in force recognizing their title over the lands.

II. It is improper on the part of the Special Deputy Collector, Tribal Welfare, Rampachodavaram, Alluri Sitharamaraju District in appreciating the documents such as the Remission Statement as Settlement Fair Adangal and Settlement Chitta as Settlement Patta. Moreover the EX R2 document shows the classification of the land shown as 'Banjara' land. As per the orders, the tax receipt filed by the non-tribal claimants vary from Fasali 1377 but paid on 2707-1971 which is after the commencement of Land Transfer (Amendment) Regulations 1 of 70. The said Regulation came into force on 03-02-1970 and it prohibits transfer of immovable property situated in the scheduled area in favour of non tribals.

III. Clause (b) of Section 3(1) which was substituted by Regulation I of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. There is no evidence to show that the non tribal claimants have and they have been in continuous possession and enjoyment of the schedule lands and mere possession is not in violation of Land Transfer Regulations
1 of 70.

IV. As per the ruling of the Hon'ble High Court of AP (2007(6) ALD 292), the land classified as Gayalu or Government land, the non-tribal person who is in possession of such land must be said to be "dealing" with such immovable property, which falls within the scope of "transfer" as defined under Section 2(g) of the Land Transfer Regulation 1 of 59 as amended by 1 of 70. Therefore the possession of the lands in question by the Revision Petitioners is in clear violation of the Land Transfer Regulations.

V. The further contention of the Revision Petitioners is that there is no restriction on land transfers effected between non tribals prior to 1970 as per the provisions of AP Scheduled Area Land Transfer Regulations 1 of 70. As such the land transfer involved between the non tribals in the case through a Sale Deed bearing No.3222/1950, dated 9-9-1950 is valid.

VI. The argument of the Revision Petitioners is incorrect in the case of Government lands. The sale transaction held in 1950 in the case is required to be viewed from the nature of the land involved in the sale for the purpose of the implementation of Land Transfer Regulations 1 of 70 (LTR). As discussed above the Revision Petitioners cannot claim right on the Government land which is situated in the Scheduled Area on the basis of a sale deed executed in 1950. Therefore the sale transaction held between the non tribal parties in 1950 cannot be considered as a valid though held prior to the commencement of LTR 1 of 70.

VII. The full bench of AP High Court in Vemana Somalamma And others Vs Deputy Collector, Tribal on 17 February, 1993(AIR 1993 AP 312) held that the object of the Land Transfer Regulation seems to be that all the immovable properties in the Agency Tracts, as far as possible, must be restored back to the tribals, which was held by tribals at one time.

VIII. In the light of the judgements referred to above, and the aforesaid observation, points that arose for consideration in this Revision Petition, are answered in favour of the order passed by Addl.Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No 42 of 2004 under the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 for the ejection of Non-Tribal claimants or any other person bound by the order and for restoration of the same to the Government for onward assignment to eligible scheduled tribes.

IX. In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioners is hereby dismissed. Therefore the impugned order passed by the Addl.Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No 42/2004 is hereby upheld. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

7. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 3 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram in C.M.A.No.42/2004 are hereby upheld and the Revision petition filed by Sri Beeraboina Prakasam, S/o. Venkatarao & another, R/o. Kamarajupeta (V), Gangavaram (M) Alluri Sitharamaraju District with regard to the land in S.No.25 of Ac.5.59 and S.No.28/4 of Ac. 1.25 of Bayyanapalli (V), Gangavaram Mandal, Alluri Sitharamaraju District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

8. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter. Accordingly, acknowledge the receipt of the case records, which are returned herewith to the Addititional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

9. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District.
The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram, Alluri Sitharamaraju District. PIN-533 288(w.e)
The Special Deputy Collector, Rampachodavaram, Alluri Sitharamaraju District.
The Tahsildar, Gangavaram (M), Alluri Sitharamaraju District.
Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Smt. B.Padma, W/o.Radha Krishna(late), Kamarajupeta Village,
Gangavaram Mandal, Alluri Sitharamaraju District.
Sri B.Venkatesh, S/o. Prakasam@Satyanarayana,
Kamarajupeta Village, Gangavaram Mandal,
Alluri Sitharamaraju District.
Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW)
The Commissioner Printing, Stationery(for publication in the AP Gazette),
Vijayawada.
SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER